

U.S. District Court
Western District of Missouri (Springfield)
CIVIL DOCKET FOR CASE #: 6:10-cv-03305-RED
Internal Use Only

Stebbins v. Richardson et al
Assigned to: District Judge Richard E. Dorr
Cause: 28:1332 Diversity–Employment Discrimination

Date Filed: 08/02/2010
Jury Demand: None
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Diversity

Plaintiff

David Stebbins

represented by **David Stebbins**
1407 N. Spring Rd
Apt #5
Harrison, AR 72601
(870) 204-6024
Email: stebbinsd@yahoo.com
PRO SE

V.

Defendant

Richardson Randal

represented by **Gary W. Allman**
Gary W. Allman Law Office
P.O. Box 5049
Branson, MO 65615
(417) 332-2800
Fax: 417-332-1008
Email: garywallman@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Reliable Heat &Air, LLC

represented by **Gary W. Allman**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
08/02/2010	<u>1</u>		MOTION for leave to proceed in forma pauperis filed by David Stebbins. Suggestions in opposition/response due by 8/19/2010 unless otherwise directed by the court. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Complaint, # <u>3</u> Exhibit, # <u>4</u> Civil Cover Sheet)(Howard, Linda) (Additional attachment(s) added on 8/2/2010: # <u>5</u> Envelope) (Howard, Linda). (Entered: 08/02/2010)
08/02/2010	<u>2</u>		Notice of EAP assignment to an outside mediator. (Attachments: # <u>1</u> EAP

		General Order)(Howard, Linda) (Entered: 08/02/2010)
08/12/2010	<u>3</u>	ORDER granting <u>1</u> motion for leave to proceed in forma pauperis; pltf to file complaint within 15 days. (Schroeppel, Kerry) Modified on 8/13/2010 copy of order mailed to plt (Howard, Linda). (Entered: 08/12/2010)
08/16/2010	<u>4</u>	PRO SE MOTION for order -- Motion to Have Marshal Serve Complaint -- filed by David Stebbins. Suggestions in opposition/response due by 9/2/2010 unless otherwise directed by the court. (Burch, C. Steve) (Entered: 08/16/2010)
08/16/2010	<u>5</u>	PRO SE MOTION for order -- Motion to Be Excluded from Participation in EAP -- filed by David Stebbins. Suggestions in opposition/response due by 9/2/2010 unless otherwise directed by the court. (Burch, C. Steve) (Entered: 08/16/2010)
09/24/2010	<u>6</u>	ORDER granting <u>4</u> pltf's motion to have marshal serve complaint; granting <u>5</u> pltf's motion to be excluded from EAP. (Schroeppel, Kerry) (Entered: 09/24/2010)
09/27/2010	<u>7</u>	COMPLAINT against Richardson Randal, Reliable Heat & Air, LLC by David Stebbins. Filing fee \$0, receipt number ifp. Service due by 1/28/2011. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Civil Cover Sheet)(Siegert, Karen) Modified on 9/27/2010 (Siegert, Karen). (Entered: 09/27/2010)
09/27/2010		SUMMONS ISSUED as to All Defendants. (Siegert, Karen) (Entered: 09/27/2010)
09/27/2010		***Remark USM-285 form along with copy of order (doc. 6), summons and complaint copy delivered to UMS for service. (Siegert, Karen) (Entered: 09/27/2010)
10/30/2010	<u>8</u>	MOTION to appoint counsel filed by All Plaintiffs. Suggestions in opposition/response due by 11/18/2010 unless otherwise directed by the court. (Stebbins, David) (Entered: 10/30/2010)
11/04/2010	<u>9</u>	ORDER denying <u>8</u> motion to appoint counsel. Signed on 11/4/10 by District Judge Richard E. Dorr. (Siegert, Karen) (Entered: 11/04/2010)
11/05/2010	<u>10</u>	First MOTION for order <i>to appoint expert</i> filed by All Plaintiffs. Suggestions in opposition/response due by 11/22/2010 unless otherwise directed by the court. (Stebbins, David) (Entered: 11/05/2010)
11/08/2010	<u>11</u>	RETURN OF SERVICE of complaint executed by David Stebbins. Richardson Randal served on 10/25/2010, answer due 11/15/2010; Reliable Heat & Air, LLC served on 10/25/2010, answer due 11/15/2010. (Burch, C. Steve) (Entered: 11/08/2010)
11/16/2010	<u>12</u>	First MOTION for default judgment filed by All Plaintiffs. Suggestions in opposition/response due by 12/3/2010 unless otherwise directed by the court. (Stebbins, David) (Entered: 11/16/2010)
11/18/2010	<u>13</u>	ANSWER to <u>7</u> Complaint, on behalf of Richardson Randal, Reliable Heat & Air, LLC.(Howard, Linda) (Entered: 11/18/2010)
11/18/2010	<u>14</u>	First MOTION for order <i>to impose sanctions for filing a frivolous defense</i> filed by All Plaintiffs. Suggestions in opposition/response due by 12/6/2010

		unless otherwise directed by the court. (Stebbins, David) (Entered: 11/18/2010)
11/19/2010	<u>15</u>	ORDER denying <u>12</u> motion for default judgment. (Schroepel, Kerry) (Entered: 11/19/2010)
11/19/2010	<u>16</u>	NOTICE OF PRETRIAL PROCEDURE, proposed scheduling order ddl 12/30/2010, rule 26 conference ddl 12/9/2010. (Schroepel, Kerry) (Entered: 11/19/2010)
11/19/2010	<u>17</u>	PROPOSED SCHEDULING ORDER AND DISCOVERY PLAN by Richardson Randal, Reliable Heat & Air, LLC, David Stebbins. (Stebbins, David) (Entered: 11/19/2010)
11/19/2010	<u>18</u>	CERTIFICATE OF SERVICE by All Plaintiffs on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 11/19/2010)
12/06/2010	<u>19</u>	ORDER denying <u>10</u> motion to appoint expert. (Schroepel, Kerry) (Entered: 12/06/2010)
12/13/2010	<u>20</u>	ORDER denying <u>14</u> motion to impose sanctions. (Schroepel, Kerry) (Entered: 12/13/2010)
12/16/2010	<u>21</u>	CERTIFICATE OF SERVICE by All Defendants <i>December 16, 2010</i> filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat & Air, LLC. (Attachments: # <u>1</u> Certificate of Service)(Allman, Gary) (Entered: 12/16/2010)
12/16/2010	<u>22</u>	CERTIFICATE OF SERVICE by All Plaintiffs on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 12/16/2010)
12/16/2010	<u>23</u>	First CERTIFICATE OF SERVICE OF INITIAL RULE 26 DISCLOSURES on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 12/16/2010)
12/17/2010	<u>24</u>	First MOTION for order filed by All Plaintiffs. Suggestions in opposition/response due by 1/6/2011 unless otherwise directed by the court. (Stebbins, David) (Entered: 12/17/2010)
12/22/2010	<u>25</u>	Notice of Filing, Request for Discovery by All Plaintiffs on behalf of Plaintiff David Stebbins.(Stebbins, David) Modified on 12/22/2010 to correct docket text(Anderson, Christy). (Entered: 12/22/2010)
12/23/2010	<u>26</u>	ORDER holding in abeyance <u>24</u> motion to relax dress code. (Schroepel, Kerry) (Entered: 12/23/2010)
12/28/2010	<u>27</u>	First MOTION for partial summary judgment filed by All Plaintiffs. Suggestions in opposition/response due by 1/21/2011 unless otherwise directed by the court (Stebbins, David) (Entered: 12/28/2010)
12/31/2010	<u>28</u>	First MOTION for order <i>for telephone conference</i> filed by All Plaintiffs. Suggestions in opposition/response due by 1/18/2011 unless otherwise directed by the court. (Stebbins, David) (Entered: 12/31/2010)
12/31/2010	<u>29</u>	CERTIFICATE OF SERVICE by All Plaintiffs <i>Second Request for Admissions</i> on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 12/31/2010)

01/04/2011	<u>30</u>	ORDER denying as moot <u>28</u> motion for telephone conference. (Schroeppe, Kerry) (Entered: 01/04/2011)
01/05/2011	<u>31</u>	CERTIFICATE OF SERVICE by All Plaintiffs on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 01/05/2011)
01/07/2011	<u>32</u>	SUGGESTIONS in opposition to motion for summary judgment re <u>27</u> First MOTION for partial summary judgment filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat & Air, LLC. Reply suggestions due by 1/24/2011 unless otherwise directed by the court. (Related document(s) <u>27</u>) (Allman, Gary) (Entered: 01/07/2011)
01/07/2011	<u>33</u>	REPLY SUGGESTIONS re <u>27</u> First MOTION for partial summary judgment on behalf of Plaintiff David Stebbins. (Related document(s) <u>27</u>) (Stebbins, David) Modified on 1/10/2011 to change the document from "Suggestions in Support" to "Reply Suggestions", as Suggestions in Opposition had already been filed. (Burch, C. Steve). (Entered: 01/07/2011)
01/09/2011	<u>34</u>	CERTIFICATE OF SERVICE by All Plaintiffs on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 01/09/2011)
01/09/2011	<u>35</u>	Second MOTION for order for <i>Telephone Conference</i> filed by All Plaintiffs. Suggestions in opposition/response due by 1/27/2011 unless otherwise directed by the court. (Stebbins, David) (Entered: 01/09/2011)
01/10/2011	<u>36</u>	ORDER granting <u>35</u> Motion for <i>Telephone Conference</i> , teleconference set for 1/12/2011 10:00 AM. (Schroeppe, Kerry) (Entered: 01/10/2011)
01/11/2011	<u>37</u>	CERTIFICATE of counsel by Gary W. Allman on behalf of All Defendants (Allman, Gary) (Entered: 01/11/2011)
01/12/2011		NOTICE OF DOCKET MODIFICATION. A modification has been made to the document filed on 01/11/2011 as Document No. 37, Certificate of Counsel. The document has been deleted as the incorrect event was used when filing the document. Counsel will refile the document using the discovery Certificate of Service event. This is a text entry only – no document is attached. (Burch, C. Steve) (Entered: 01/12/2011)
01/12/2011	<u>38</u>	DOCUMENT WAS VACATED PER ORDER <u>42</u> DATED 1/21/11. ORDER denying <u>27</u> motion for partial summary judgment. (Schroeppe, Kerry) Modified on 1/24/2011 (Siegert, Karen). (Entered: 01/12/2011)
01/12/2011	<u>39</u>	First MOTION for reconsideration of <i>order denying motion for partial summary judgment</i> filed by All Plaintiffs. Suggestions in opposition/response due by 1/31/2011 unless otherwise directed by the court. (Stebbins, David) (Entered: 01/12/2011)
01/12/2011	<u>40</u>	Minute Entry. Proceedings held before District Judge Richard E. Dorr: TELEPHONE CONFERENCE held on 1/12/2011. To order a transcript of this hearing please contact Jeannine Rankin, 417-225-7713. (Siegert, Karen) (Entered: 01/12/2011)
01/12/2011	<u>41</u>	CERTIFICATE OF SERVICE by All Plaintiffs filed by Gary W. Allman on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 01/12/2011)
01/21/2011	<u>42</u>	ORDER granting <u>39</u> Motion for Reconsideration, vacating <u>38</u> Order;

		denying <u>27</u> Motion for Partial Summary Judgment. (Schroeppe, Kerry) (Entered: 01/21/2011)
01/21/2011	<u>43</u>	Second MOTION for reconsideration <i>on order denying motion for partial summary judgment</i> filed by All Plaintiffs. Suggestions in opposition/response due by 2/7/2011 unless otherwise directed by the court. (Stebbins, David) (Entered: 01/21/2011)
01/23/2011	<u>44</u>	CERTIFICATE OF SERVICE by All Plaintiffs <i>Third Interrogatory</i> on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 01/23/2011)
01/25/2011	<u>45</u>	DOCUMENT WAS VACATED PER ORDER <u>50</u> DATED 2/14/11. SCHEDULING &BENCH TRIAL ORDER: discovery ddl 5/18/2011, dispositive motions ddl 6/17/2011, pretrial teleconference set for 10/20/2011 02:00 PM, bench trial set for 10/31/2011 09:00 AM in District Courtroom 1, Springfield. (Schroeppe, Kerry) Modified on 2/14/2011 (Siegert, Karen). (Entered: 01/25/2011)
01/25/2011	<u>46</u>	DOCUMENT WAS VACATED PER ORDER <u>50</u> filed 2/14/11. RULES OF BENCH TRIAL. (Schroeppe, Kerry) Modified on 2/14/2011 (Siegert, Karen). (Entered: 01/25/2011)
01/25/2011	<u>47</u>	First MOTION for order Request for jury trial filed by All Plaintiffs. Suggestions in opposition/response due by 2/11/2011 unless otherwise directed by the court. (Stebbins, David) (Entered: 01/25/2011)
01/27/2011	<u>48</u>	ORDER denying <u>43</u> motion for reconsideration. (Schroeppe, Kerry) (Entered: 01/27/2011)
01/27/2011	<u>49</u>	CERTIFICATE OF SERVICE by All Plaintiffs on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 01/27/2011)
02/14/2011	<u>50</u>	ORDER granting <u>47</u> Pltf's Motion for Jury Trial; vacating <u>45</u> Scheduling and Bench Trial Order and <u>46</u> Rules of Bench Trial. (Schroeppe, Kerry) (Entered: 02/14/2011)
02/14/2011	<u>51</u>	AMENDED SCHEDULING &JURY TRIAL ORDER: discovery ddl 5/18/2011, dispositive motions ddl 6/17/2011, pretrial teleconference set for 10/20/2011 02:00 PM, jury trial set for 10/31/2011 09:00 AM in District Courtroom 1, Springfield.(Schroeppe, Kerry) Modified on 2/15/2011 (Siegert, Karen). (Entered: 02/14/2011)
02/14/2011	<u>52</u>	RULES OF JURY TRIAL. (Schroeppe, Kerry) (Entered: 02/14/2011)
02/16/2011	<u>53</u>	Third MOTION for order <i>scheduling a telephone conference</i> filed by All Plaintiffs. Suggestions in opposition/response due by 3/7/2011 unless otherwise directed by the court. (Stebbins, David) (Entered: 02/16/2011)
02/27/2011	<u>54</u>	Second MOTION for default judgment filed by All Plaintiffs. Suggestions in opposition/response due by 3/17/2011 unless otherwise directed by the court. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Stebbins, David) (Entered: 02/27/2011)
02/27/2011	<u>55</u>	SUGGESTIONS in support re <u>54</u> Second MOTION for default judgment on behalf of Plaintiff David Stebbins. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Related document(s) <u>54</u>) (Stebbins, David) (Entered: 02/27/2011)

03/01/2011	<u>56</u>	ORDER <u>53</u> third motion to schedule telephone conference; telephone conference set for 3/4/2011 10:00 AM. (Schroepel, Kerry) (Entered: 03/01/2011)
03/01/2011	<u>57</u>	CERTIFICATE OF SERVICE by All Defendants filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat &Air, LLC.(Allman, Gary) (Entered: 03/01/2011)
03/01/2011	<u>58</u>	First MOTION to strike <i>inadmissible evidence</i> filed by All Plaintiffs. Suggestions in opposition/response due by 3/18/2011 unless otherwise directed by the court. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Stebbins, David) (Entered: 03/01/2011)
03/02/2011	<u>59</u>	ORDER vacating 3/4/2011 teleconference. (Schroepel, Kerry) (Entered: 03/02/2011)
03/04/2011	<u>60</u>	CERTIFICATE OF SERVICE by All Defendants filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat &Air, LLC.(Allman, Gary) (Entered: 03/04/2011)
03/04/2011	<u>61</u>	CERTIFICATE OF SERVICE by All Plaintiffs on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 03/04/2011)
03/07/2011	<u>62</u>	CERTIFICATE OF SERVICE by All Defendants filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat &Air, LLC.(Allman, Gary) (Entered: 03/07/2011)
03/07/2011	<u>63</u>	MOTION for order re <u>59</u> Order <i>Renewing telephone conference</i> filed by All Plaintiffs. Suggestions in opposition/response due by 3/24/2011 unless otherwise directed by the court. (Related document(s) <u>59</u>) (Stebbins, David) (Entered: 03/07/2011)
03/08/2011	<u>64</u>	SUGGESTIONS in support re <u>63</u> MOTION for order re <u>59</u> Order <i>Renewing telephone conference</i> on behalf of Plaintiff David Stebbins. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B)(Related document(s) <u>63</u>) (Stebbins, David) (Entered: 03/08/2011)
03/08/2011	<u>65</u>	SUGGESTIONS in support re <u>54</u> Second MOTION for default judgment , <u>63</u> MOTION for order re <u>59</u> Order <i>Renewing telephone conference</i> on behalf of Plaintiff David Stebbins. (Related document(s) <u>54</u> , <u>63</u>) (Stebbins, David) (Entered: 03/08/2011)
03/09/2011	<u>66</u>	ORDER granting <u>63</u> <i>Renewed Motion for Telephone Conference</i> setting telephone Conference set for 3/11/2011 09:00 AM. (Schroepel, Kerry) (Entered: 03/09/2011)
03/11/2011	<u>67</u>	Minute Entry. Proceedings held before District Judge Richard E. Dorr: TELEPHONE CONFERENCE held on 3/11/2011. Discovery issues discussed. Order denying <u>54</u> motion for default judgment; denying <u>58</u> motion to strike. To order a transcript of this hearing please contact Jeannine Rankin, 417-225-7713. (Siegert, Karen) (Entered: 03/14/2011)
03/15/2011	<u>68</u>	CERTIFICATE OF SERVICE by All Defendants filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat &Air, LLC.(Allman, Gary) (Entered: 03/15/2011)

03/17/2011	<u>69</u>	CERTIFICATE OF SERVICE by All Plaintiffs <i>Sixth Request for Admissions</i> on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 03/17/2011)
03/25/2011	<u>70</u>	First MOTION for order <i>confirming an arbitration award</i> filed by All Plaintiffs. Suggestions in opposition/response due by 4/11/2011 unless otherwise directed by the court. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit E, # <u>5</u> Exhibit F, # <u>6</u> Supplement A)(Stebbins, David) (Entered: 03/25/2011)
03/30/2011	<u>71</u>	CERTIFICATE OF SERVICE by All Plaintiffs <i>for second request for production</i> on behalf of Plaintiff David Stebbins.(Stebbins, David) (Entered: 03/30/2011)
04/11/2011	<u>72</u>	CERTIFICATE OF SERVICE by All Defendants filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat &Air, LLC.(Allman, Gary) (Entered: 04/11/2011)
04/15/2011	<u>73</u>	Emergency MOTION for preliminary injunction <i>to disallow defense testimony</i> filed by All Plaintiffs. Suggestions in opposition/response due by 5/2/2011 unless otherwise directed by the court. (Attachments: # <u>1</u> Supplement)(Stebbins, David) (Entered: 04/15/2011)
04/18/2011	<u>74</u>	ORDER setting telephone conference for 4/22/2011 04:00 PM. (Schrooppel, Kerry) (Entered: 04/18/2011)
04/19/2011	<u>75</u>	SUGGESTIONS in opposition re <u>70</u> First MOTION for order <i>confirming an arbitration award</i> filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat &Air, LLC. Reply suggestions due by 5/6/2011 unless otherwise directed by the court (Related document(s) <u>70</u>) (Allman, Gary) (Entered: 04/19/2011)
04/19/2011	<u>76</u>	MOTION for hearing filed by Gary W. Allman on behalf of All Defendants. Suggestions in opposition/response due by 5/6/2011 unless otherwise directed by the court. (Allman, Gary) (Entered: 04/19/2011)
04/19/2011	<u>77</u>	CERTIFICATE of counsel by Gary W. Allman on behalf of All Defendants (Allman, Gary) (Entered: 04/19/2011)
04/19/2011	<u>78</u>	CERTIFICATE OF SERVICE by All Defendants filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat &Air, LLC.(Allman, Gary) (Entered: 04/19/2011)
04/19/2011	<u>79</u>	CERTIFICATE OF SERVICE by All Defendants filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat &Air, LLC.(Allman, Gary) (Entered: 04/19/2011)
04/19/2011	<u>80</u>	CERTIFICATE OF SERVICE by All Defendants filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat &Air, LLC.(Allman, Gary) (Entered: 04/19/2011)
04/19/2011	<u>81</u>	REPLY SUGGESTIONS to motion re <u>70</u> First MOTION for order <i>confirming an arbitration award</i> on behalf of Plaintiff David Stebbins. (Related document(s) <u>70</u>) (Stebbins, David) (Entered: 04/19/2011)
04/20/2011		NOTICE OF DOCKET MODIFICATION. A modification has been made to

			the document filed on 04/19/11 as Document No. 77, Certificate of counsel. The document has been deleted as the incorrect document was filed and contained e-mail print screens rather than full documents. Counsel will refile the correct document. This is a text entry only – no document is attached. (Anderson, Christy) (Entered: 04/20/2011)
04/20/2011	82		CERTIFICATE of counsel by Gary W. Allman on behalf of All Defendants (Allman, Gary) (Entered: 04/20/2011)
04/20/2011	<u>83</u>		CERTIFICATE OF SERVICE by All Defendants filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat & Air, LLC.(Allman, Gary) (Entered: 04/20/2011)
04/20/2011	<u>84</u>		SUGGESTIONS in opposition re <u>76</u> MOTION for hearing <i>to compel discovery</i> on behalf of Plaintiff David Stebbins. Reply suggestions due by 5/9/2011 unless otherwise directed by the court (Related document(s) <u>76</u>) (Stebbins, David) (Entered: 04/20/2011)
04/21/2011			NOTICE OF DOCKET MODIFICATION. A modification has been made to the document filed on 04/20/11 as Document No. 82, Certificate of Counsel. The document has been deleted as the incorrect document was filed and contained e-mail print screens rather than full documents (Duplicate of Doc No. 77). Counsel will refile the correct document. This is a text entry only – no document is attached. (Anderson, Christy) (Entered: 04/21/2011)
04/22/2011	<u>85</u>		Minute Entry. Proceedings held before District Judge Richard E. Dorr: TELEPHONE CONFERENCE held on 4/22/2011. To order a transcript of this hearing please contact Jeannine Rankin, 417-225-7713. (Siegert, Karen) (Entered: 04/22/2011)
04/22/2011	<u>86</u>		First MOTION for reconsideration re <u>70</u> First MOTION for order <i>confirming an arbitration award</i> filed by All Plaintiffs. Suggestions in opposition/response due by 5/9/2011 unless otherwise directed by the court. (Related document(s) <u>70</u>) (Stebbins, David) (Entered: 04/22/2011)
04/26/2011	<u>87</u>		SUGGESTIONS in opposition re <u>86</u> First MOTION for reconsideration re <u>70</u> First MOTION for order <i>confirming an arbitration award</i> filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat & Air, LLC. Reply suggestions due by 5/13/2011 unless otherwise directed by the court (Related document(s) <u>86</u>) (Allman, Gary) (Entered: 04/26/2011)
04/26/2011	<u>88</u>		CERTIFICATE OF SERVICE by All Defendants re <u>87</u> Suggestions in Opposition to Motion, filed by Gary W. Allman on behalf of Defendants Richardson Randal, Reliable Heat & Air, LLC. Related document: <u>87</u> Suggestions in Opposition to Motion, filed by Richardson Randal, Reliable Heat & Air, LLC.(Allman, Gary) (Entered: 04/26/2011)
04/26/2011	<u>89</u>		REPLY SUGGESTIONS to motion re <u>86</u> First MOTION for reconsideration re <u>70</u> First MOTION for order <i>confirming an arbitration award</i> on behalf of Plaintiff David Stebbins. (Related document(s) <u>86</u>) (Stebbins, David) (Entered: 04/26/2011)
04/26/2011	<u>90</u>	10	ORDER on results of teleconference denying <u>70</u> Motion to Confirm Arbitration Award; denying <u>73</u> Motion for Preliminary Injunction to Disallow Defense Testimony. (Schroeppel, Kerry) (Entered: 04/26/2011)

04/27/2011	<u>91</u>		PRO SE MOTION for leave to Appeal in forma pauperis filed by David Stebbins. Suggestions in opposition/response due by 5/16/2011 unless otherwise directed by the court. (Burch, C. Steve) (Entered: 04/27/2011)
04/27/2011	<u>92</u>	11	PRO SE NOTICE OF APPEAL filed by David Stebbins as to <u>90</u> Order on Motion for Miscellaneous Relief, Order on Motion for Preliminary Injunction. Filing fee \$ 0, receipt number IFP. (Attachments: # <u>1</u> Envelope)(Burch, C. Steve) (Entered: 04/27/2011)
04/28/2011	<u>93</u>		ORDER denying <u>86</u> Motion for Reconsideration . (Schroepel, Kerry) (Entered: 04/28/2011)
04/28/2011	<u>94</u>		First MOTION to clarify <i>order denying motion to confirm arbitration award</i> . filed by All Plaintiffs. Suggestions in opposition/response due by 5/16/2011 unless otherwise directed by the court. (Stebbins, David) (Entered: 04/28/2011)
04/28/2011	<u>95</u>		First MOTION to expedite <i>motion to appeal in forma pauperis (Document #91)</i> filed by All Plaintiffs. Suggestions in opposition/response due by 5/16/2011 unless otherwise directed by the court. (Stebbins, David) (Entered: 04/28/2011)
04/29/2011	<u>96</u>		Second MOTION for reconsideration re <u>90</u> Order on Motion for Miscellaneous Relief, Order on Motion for Preliminary Injunction filed by All Plaintiffs. Suggestions in opposition/response due by 5/16/2011 unless otherwise directed by the court. (Related document(s) <u>90</u>) (Stebbins, David) (Entered: 04/29/2011)
04/29/2011	<u>97</u>		SUGGESTIONS in support re <u>96</u> Second MOTION for reconsideration re <u>90</u> Order on Motion for Miscellaneous Relief, Order on Motion for Preliminary Injunction on behalf of Plaintiff David Stebbins. (Related document(s) <u>96</u>) (Stebbins, David) (Entered: 04/29/2011)
04/30/2011	<u>98</u>		SUGGESTIONS in support re <u>96</u> Second MOTION for reconsideration re <u>90</u> Order on Motion for Miscellaneous Relief, Order on Motion for Preliminary Injunction on behalf of Plaintiff David Stebbins. (Related document(s) <u>96</u>) (Stebbins, David) (Entered: 04/30/2011)
05/02/2011	<u>99</u>		SUGGESTIONS in support re <u>96</u> Second MOTION for reconsideration re <u>90</u> Order on Motion for Miscellaneous Relief, Order on Motion for Preliminary Injunction on behalf of Plaintiff David Stebbins. (Related document(s) <u>96</u>) (Stebbins, David) (Entered: 05/02/2011)
05/02/2011	<u>100</u>	14	ORDER denying <u>91</u> motion for leave to appeal in forma pauperis; denying <u>94</u> motion to clarify; denying as moot <u>95</u> motion to expedite. (Schroepel, Kerry) (Entered: 05/02/2011)
05/03/2011	<u>101</u>		Third MOTION for reconsideration re <u>100</u> Order on Motion for Leave to Appeal in forma pauperis, Order on Motion to Clarify, Order on Motion to Expedite filed by All Plaintiffs. Suggestions in opposition/response due by 5/20/2011 unless otherwise directed by the court. (Related document(s) <u>100</u>) (Stebbins, David) (Entered: 05/03/2011)
05/03/2011	<u>102</u>	19	TRANSMISSION of Notice of Appeal Supplement to US Court of Appeals, 8th Circuit via electronic mail. Related document <u>92</u> Notice of Appeal. (Burch, C. Steve) (Entered: 05/03/2011)

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

DAVID STEBBINS,)
v. Plaintiff,)
RELIABLE HEAT & AIR, LLC, et al.,)
Defendants.)
Case No. 10-3305-CV-S-RED

ORDER

The Court held a telephone conference on April 22, 2011, at 4:00 p.m. For reasons discussed during the telephone conference, the Court:

1. **DENIED** Plaintiff's Objection to Defense's Presence in Telephone Conference (Doc. 73);
2. **DENIED** Plaintiff's Motion to Confirm Arbitration Award (Doc. 70); and
3. **GRANTED** Defendants' Motion for Hearing Plaintiff's Objections to Defendants' First Interrogatories (Doc. 76) to the extent it called for the Court to rule on Plaintiff's objections to Defendants' First Interrogatories. The Court overruled Plaintiff's objections with regard to the following interrogatories: 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, and 15. Plaintiff shall respond to those 12 interrogatories on or before May 13, 2011. The Court sustained Plaintiff's objection to interrogatory 8.

IT IS SO ORDERED.

DATED: April 25, 2011

/s/ Richard E. Dorr
RICHARD E. DORR, JUDGE
UNITED STATES DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

DAVID STEBBINS,)
)
Plaintiff,)
)
v.)
)
RELIABLE HEAT & AIR, LLC, et al.,)
 And)
RANDAL RICHARDSON, et al.)
Defendants.)

)Case No. 10-3305-CV-S-RED

NOTICE OF APPEAL

Comes now Plaintiff David Stebbins, who respectfully submits the following notice of appeal. I intend to appeal the District Court's order denying my motion to confirm the arbitration award, which I have the right to do. See 9 U.S.C. § 16(a)(1)(D).

The district court erred in ruling that the arbitration agreement was invalid, and in denying confirmation of the arbitration award. The District Court claimed that, with arbitration, both parties must participate. However, that is simply not true, and I can provide case law directly on point, in my favor.

Besides, it is irrelevant because the Defendants did not file a motion to vacate, modify, or correct. In 2007, the Supreme Court made it perfectly clear in the case of *Hall Street Associates, LLC v. Mattel, Inc.* that the exclusivity of §§10 and 11 as avenues with which to fight the confirmation of an arbitration award is absolute; without them, the District Court absolutely *must* confirm the award, no exceptions.

In both of these areas, the District Court erred, and I now wish to appeal his erroneous decision.

Also, I am applying for leave to proceed in forma pauperis. Please approve this application.

Furthermore, I certify, under penalty of perjury, that a true and correct copy of this notice was served on Gary Allman, attorney for the Defense, by transmitting a copy thereof via email transmission on the 25th day of April, 2011.



David Stebbins
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APT #5
Harrison, AR 72601
870-204-6024
stebbinsd@yahoo.com

David Stebbins
1407 N Spring Rd
Apt #5
Harrison, AR 72601

NORTHWEST AIR PEOPLE

U.S. District Court
222 N. John A. Hammons Parkway
Room 1400
Springfield, MO 65806

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

DAVID STEBBINS,)
v. Plaintiff,)
RELIABLE HEAT & AIR, LLC, et al.,)
Defendants.)
Case No. 10-3305-CV-S-RED

ORDER

Plaintiff, proceeding *pro se*, has moved to proceed in forma pauperis on appeal (Doc. 91).

After careful consideration, the Court **DENIES** Plaintiff's Motion (Doc. 91) and hereby certifies that his appeal is not taken in good faith.

BACKGROUND

Plaintiff seeks to appeal this Court’s denial of his motion to confirm arbitration award, which was based on the following facts.¹ On March 20, 2011, Plaintiff sent counsel for Defendants an email. The subject line of the email stated, “Read this.” Doc. 70-1. The text of the email stated, “I assure you, under penalty of perjury, that this is NOT malware.” *Id.* The email contained an attachment titled, “Arbitration Agreement.” *Id.* The “Arbitration Agreement” stated as follows:

Overview

The following is a contract between David A. Stebbins of Harrison, AR (me, myself, I), and Reliable Heat & Air, LLC, and Ranal (sic) Richardson (sic) (you), collectively known as "the Parties" (we, us). By viewing this contract on Youtube and, subsequently, performing any of the acceptance methods listed below, you hereby agree to be bound by the following terms:

Arbitration

¹Each fact stated in this Order is solely an alleged fact. Nothing in this Order should be taken to mean that a fact has been proven or is accepted by the Court. The facts are simply stated for context.

You hereby agree to settle all legal disputes with me – even those not related to this contract – to binding arbitration, using the services of either www.net-arb.com, the American Arbitration Association, or the National Arbitration Forum.

Forfeit Victory

If you are served with an arbitration invitation, and do not accept this arbitration invitation within 24 hours of receiving it, I automatically win, regardless of the merits of the case. If you receive the arbitration invitation in the mail, you must have your acceptance in the mail by the next business day to avoid this forfeit victory clause. No actual arbitration award needs to be entered; I simply win, automatically, without having to go to arbitration.

Acceptance method

You accept this contract if you, or your employees and/or affiliates...

1. Instigate communications with me, in any way, unless you are legally required to communicate with me.
 - A) This will also apply if you communicate with me in ways that are expected of you, but not required, such as responding to a request for admissions, and admitting even one fact (because, if the fact is admitted, you can always just let the 30 day time limit expire, and the fact is admitted by default).
2. Allowing me to communicate with you for any reason that you are not legally required to entertain me on.
 - A) This will also apply to allowing me to send emails to you, and not blocking my attempts to communicate, as well as not calling the police if I communicate with you for any reason I am not legally entitled to communicate with you for.
3. Seeing me on your property and not asking me to leave, immediately.

On March 23, 2011, Plaintiff called Gary Allman, counsel for Defendants. Plaintiff stated he had a question that was related to his case against Reliable Heat & Air, but that the question was not a formal discovery question. Allman told Plaintiff that he would call him back in a few minutes. Allman eventually followed up with an email, apologizing for missing Plaintiff's call and stating that if Plaintiff would like to discuss something he could call him back. Plaintiff contends that these communications constituted Defendants' acceptance of the arbitration agreement. On March 24, 2011, Plaintiff sent another email to Allman. The text of the email in part stated, "I tried to sign this thing, but I couldn't scan it. My scanner isn't working properly. If you print this out, sign it, scan it, and then send it back to me, I can sign it and send it back to you so you can send it, and the filing

fee, to the AAA.” The email contained an attachment titled, “Reliable Submission to Arbitration.” Plaintiff asserts because Allman did not accept this purported invitation to arbitrate, he “automatically win[s], regardless of the merits of the case,” pursuant to the forfeit victory clause.

DISCUSSION

Standard to Proceed In Forma Pauperis on Appeal

“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). Courts judge “good faith” from an objective standard. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). Good faith is not present if the issues presented for review are frivolous, *Id.*, if there is no arguable basis in law or fact supporting the appellant’s claims, *In re Fromal*, 151 B.R. 733, 735 (E.D. Va. 1993) (citing *Neitzke v. Williams*, 490 U.S. 319 (1989)), if the appeal is based on some evident improper motive, *Ellis v. United States*, 356 U.S. 674, 674 (1958), or if the order from which the appellant desires to appeal is a non-appealable order, *Javor v. Brown*, 295 F.2d 60, 61 (9th Cir. 1961).

The issue presented for appeal is frivolous and is not supported by any arguable basis in law or fact

In his motion to proceed in forma pauperis, Plaintiff contends this Court erred in refusing to confirm an arbitration award. This issue is patently frivolous because the parties never entered into an arbitration agreement, never engaged in arbitration, and Plaintiff never obtained an arbitration award. As previously discussed, parties must agree to arbitrate, and without an agreement, no valid contract to arbitrate exists. *See Whitworth v. McBride & Son Homes, Inc.*, 2011 WL 1233806, at *5 (Mo. Ct. App. April 5, 2011). Despite Plaintiff’s contentions, Allman’s communications with Plaintiff do not show that Allman or the Defendants agreed to arbitrate.

Plaintiff's appeal is based on improper motives

After filing his motion to confirm arbitration award, Plaintiff sent an email to Allman, wherein Plaintiff explained the reasons for his actions. Doc. 75, p. 6-7. It is clear from the body of the email that Plaintiff filed the motion for purposes of harassment and to coerce Defendants into settlement. The email is replete with profanities, evidences Plaintiff's desire for revenge against Defendants, and concludes with Plaintiff's statement that "I think you and your client need to offer me something huge, in order to get me to drop the motion."

Plaintiff seeks to appeal a non-appealable order

Generally speaking, a circuit court only has jurisdiction over a final decision of a district court. *Gerhardt v. Liberty Life Assur. Co. of Boston*, 574 F.3d 505, 507 (8th Cir. 2009). A decision is only final if it "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." *Id.* This Court's order on Plaintiff's motion to confirm arbitration award was not a final order because Plaintiff's claim for disability discrimination remains viable. It also appears that this Court's order would not fit within any exception to the final judgment rule.

CONCLUSION

In sum, the Court **DENIES** Plaintiff's Motion and Affidavit for Permission to Appeal in Forma Pauperis (Doc. 91), as any appeal would not be taken in good faith. Good faith is lacking because the issue presented for appeal is frivolous, the appeal is based on improper motives, and Plaintiff seeks to appeal an order that is not a final order. Plaintiff has indicated that he is considering filing a motion for a writ of mandamus. This Order merely relates to the appeal issue and does not apply to any writ Plaintiff may be considering.

The Court declines to further clarify or reconsider its order on Plaintiff's motion to confirm

arbitration award. Plaintiff's belief that *CACV of Colorado, LLC v. Muhlhausen*, 2011 WL 287976 (Mo. Ct. App. January 27, 2011), and *Sheet Metal Workers Int'l Ass'n, Local Union No. 36 v. Systemaire, Inc.*, 241 F.3d 972 (8th Cir. 2001) are directly on point is misguided, as those cases involved grievances that were presented to and decided by an arbitrator. There has been no decision by an arbitrator in this case. Accordingly, the Court **DENIES** Plaintiff's Motion for Clarification of Order (Doc. 94), and Plaintiff's Second Motion for Reconsideration (Doc. 96). Plaintiff's Motion to Expedite IFP Appeal (Doc. 95) is **DENIED** as moot.

IT IS SO ORDERED.

DATED: May 2, 2011

/s/ Richard E. Dorr

RICHARD E. DORR, JUDGE
UNITED STATES DISTRICT COURT

**U.S. COURT OF APPEALS - EIGHTH CIRCUIT
NOA SUPPLEMENT**

Case Name: **David Stebbins v. Richardson Randal, et al**

Case Number: **10-3305-CV-S-RED**

Please return files and documents to: **U.S. District Court
1400 U.S. Courthouse
222 John Q. Hammons Parkway
Springfield, MO 65806
(417) 865-3869**

Person to contact with questions about this appeal: **Steve Burch, Springfield Clerk's Office**

Length of Trial: **N/A**

Financial Status: Fee Paid: **No**
If NO, has IFP been granted: **No**
Is there a pending motion for IFP? **No (Denied 5/2/2011 in Doc. # 100)**

Counsel: **David Stebbins (Appellant / Pro Se Plaintiff)
Gary W. Allman (Defendants)**

Are there any other pending post-judgment motions: **Yes. Third Motion for Reconsideration (Doc. # 101, filed 5/3/2011)**

Is there keen local interest in this case? **No.**

Do you recommend a simultaneous opinion release? **No.**

Is there a court reporter in this case? **Yes.**

If yes, please identify: **Jeannine Rankin (417-225-7713)**

Criminal Cases only:

Is defendant incarcerated: **N/A**

Please list all other defendants in this case if there were multiple defendants: **N/A**

Special Comments: